

MONTANA LEGISLATIVE HISTORY

Chapter 77 19 81

Bill H _____ S 54 Original bill & history ✓ C

H. Committee on Taxation

Hearing Date(s) Mar 05 ✓ C

Mar 06 ✓ C

_____ C

_____ C

Date Out Mar 09 ✓ C

S. Committee on Taxation

Hearing Date(s) Jan 14 ✓ C

_____ C

_____ C

_____ C

Jan 14 ✓ C

Did this bill originate in an interim committee? ____ Yes ____ No

Committee _____

Report _____

HEARING: 1/13

REPORT: DO NOT PASS AS AMENDED, 1/23 YEAS: 29; NAYS: 21
KILLED

SB 53 -- B. BROWN -- TO EXTEND THE PERIOD FOR BRINGING AN ACTION
PROTEST STATE LICENSE FEES OR TAXES FROM 60 DAYS TO 90 DAYS....
PREFILED AND REFERRED TO COMMITTEE ON TAXATION: 12/30/80

HEARING: 1/14

REPORT: 2/20, ADVERSE REPORT ADOPTED -- YEAS: 50 -- KILLED

SB 54 -- B. BROWN -- TO REQUIRE SERVICE OF THE APPEAL PETITION ON THE
DEPARTMENT OF REVENUE....

PREFILED AND REFERRED TO COMMITTEE ON TAXATION: 12/30/80

HEARING: 1/14

REPORT: 1/15, DO PASS AS AMENDED

2ND READING: 1/17, YEAS: 48; NAYS: 0

3RD READING: 1/20, YEAS: 49; NAYS: 0

TRANSMITTED TO HOUSE: 1/20

REFERRED TO COMMITTEE ON TAXATION: 1/21

HEARING: 3/5

REPORT: 3/7, BE CONCURRED IN

2ND READING: 3/10, YEAS: 77; NAYS: 0

3RD READING: 3/12, YEAS: 96; NAYS: 0

RETURNED TO SENATE: 3/12

TRANSMITTED TO GOVERNOR: 3/17/81

ACTION: 3/19, SIGNED

CHAPTER 77

SB 55 -- B. BROWN -- TO SIMPLIFY REPORTING REQUIREMENTS FOR CERTAIN
TAXES....

PREFILED AND REFERRED TO COMMITTEE ON TAXATION: 12/30/80

HEARING: 1/14

REPORT: 1/14, DO PASS

2ND READING: 1/16, YEAS: 47; NAYS: 0

3RD READING: 1/19, YEAS: 49; NAYS: 0

TRANSMITTED TO HOUSE: 1/19

REFERRED TO COMMITTEE ON TAXATION: 1/20

HEARING: 3/5

REPORT: 3/7, BE CONCURRED IN

2ND READING: 3/10, YEAS: 74; NAYS: 3

SPEREGATED: 3/10

ON MOTION, 3/10, REFERRED TO COMMITTEE ON TAXATION.

REPORT: 3/17, BE CONCURRED IN

ON MOTION, 3/26, PASSED FOR THE DAY.

2ND READING: 3/27, YEAS: 88; NAYS: 0

3RD READING: 3/31, YEAS: 96; NAYS: 0

RETURNED TO SENATE: 3/31

TRANSMITTED TO GOVERNOR: 4/8/81

ACTION: 4/13, SIGNED

CHAPTER 334

SB 56 -- B. BROWN -- TO GENERALLY REVISE AND CLARIFY LAWS RELATING
HUMAN RIGHTS....

PREFILED AND REFERRED TO COMMITTEE ON
ADMINISTRATION: 12/30/80

SENATE BILL NO. 54

INTRODUCED BY B. BROWN

BY REQUEST OF THE DEPARTMENT OF REVENUE

IN THE SENATE

January 5, 1981	Introduced and referred to Committee on Taxation.
January 15, 1981	Committee recommend bill do pass as amended. Report adopted.
January 16, 1981	Bill printed and placed on members' desks.
January 17, 1981	Second reading, do pass.
January 19, 1981	Considered correctly engrossed.
January 20, 1981	Third reading, passed. Transmitted to House.

IN THE HOUSE

January 21, 1981	Introduced and referred to Committee on Taxation.
March 9, 1981	Committee recommend bill be concurred in. Report adopted.
March 10, 1981	Second reading, concurred in.
March 12, 1981	Third reading, concurred in. Ayes, 96; Noes, 0.

IN THE SENATE

March 13, 1981	Returned from House. Concurred in. Sent to enrolling. Reported correctly enrolled.
----------------	---

1 SENATE BILL NO. 54
2 INTRODUCED BY B. BROWN
3 BY REQUEST OF THE DEPARTMENT OF REVENUE
4
5 A BILL FOR AN ACT ENTITLED: "AN ACT TO AMEND SECTION
6 15-2-303, MCA, TO REQUIRE SERVICE OF THE APPEAL PETITION ON
7 THE DEPARTMENT OF REVENUE IN THE CASE OF AN APPEAL FROM A
8 DECISION OF THE STATE TAX APPEAL BOARD."
9
10 BE IT ENACTED BY THE LEGISLATURE OF THE STATE OF MONTANA:
11 Section 1. Section 15-2-303, MCA, is amended to read:
12 "15-2-303. Judicial review of contested cases. (1) Any
13 party to an appeal before the state tax appeal board who is
14 aggrieved by a final decision in a contested case is
15 entitled to judicial review under this part.
16 (2) Proceedings for review shall be instituted by
17 filing a petition in district court in the county wherein
18 the taxable property or some portion thereof is located
19 (except the taxpayer may, at his option, file in the
20 district court of the first judicial district) and serving a
21 copy of the petition on the state tax appeal board and the
22 department of revenue within 30 days after service of the
23 final decision of the state tax appeal board or, if a
24 rehearing is requested, within 30 days after the decision
25 thereon. All parties to the appeal shall cause to be served

1 on the state tax appeal board a copy of all pleadings and
2 documents they shall file in such proceedings.
3 (3) Notwithstanding any other provision, proceedings
4 for review of a decision by the state tax appeal board by a
5 company under the jurisdiction of the public service
6 commission shall be instituted in the district court of the
7 first judicial district.
8 (4) Notwithstanding the provisions of 2-4-704(1), the
9 court may, for good cause shown, permit additional evidence
10 to be introduced."

-End-

MINUTES OF THE MEETING
TAXATION COMMITTEE
MONTANA STATE SENATE

January 14, 1981

The fourth meeting of the Taxation Committee was called to order by Chairman Pat Goodover at 8 a.m. in Room 415 of the State Capitol Building.

ROLL CALL: All members were present, with the exception of Senator Healy.

CONSIDERATION OF SENATE BILL 54: Sponsor Senator Bob Brown said that a Department of Revenue problem has prompted consideration of this bill. The past history, as well as proposed action, of this bill is set forth in Attachment #1. Senator Brown said that the Dept. of Revenue wants a provision stating that if someone is going to appeal they have notification of the appeal. When a tax protestor appeals to the State Tax Appeal Board, there is nothing in the law that stipulates notifying DOR if that person further decides to take his case to court thereby risking possible default. There were no proponents or opponents to this bill and questions from the Committee were called for. Larry Weinberg, representative from the DOR was available to the committee for questions.

In answer to questions about why STAB does not notify DOR, Mr. Weinberg said that sometimes there is a communication breakdown between the two, and sometimes DOR is not even named in the action. Sen. Crippen asked if this bill wasn't to prevent a housekeeping problem between the two agencies, rather than as a service to the taxpayer and asked what would be wrong with requiring STAB to inform DOR within 30 days of any appeal. Sen. Brown responded that he thought the wording should be clarified on making personal service on the Dept. of Revenue and that this wording should be considered further in executive session. The hearing was closed on SB54.

CONSIDERATION OF SENATE BILL 55: Sponsor Sen. Bob Brown presented this bill. See Attachment #2. He said this basically is a bill to decrease paperwork. The problem the bill addresses is that people who have to file tax reports for coal severance, oil, etc., have to file this report quarterly and annually and reports must be notarized. The first three sections of the bill repeal the verifying requirement. Section IV of the present bill requires a report to be filed with DOR when a new business opens, and he considered this a needless bit of paperwork for the honest businessman. There were no opponents or proponents so questions were called for from the Committee. Sen. Crippen asked why these codes were in effect to begin with. Mr. Weinberg thought it was so that the Department would know who was in business so they could be contacted. Chair Goodover asked Sen. Brown to Close and Sen. Brown made a motion that SB55 be passed. Motion carried and SB55 received a unanimous do pass vote.

CONSIDERATION OF SENATE BILL 53: Sponsoring Sen. Bob Brown presented this bill (see Attachment #3). Senator Brown said Sen. Bill Thomas has a bill in the house that would repeal the section we're dealing with in this bill. The situation is that the present statute allows 60 days to bring an action from the date of protest of tax on state level taxes and 90 days from date of protest on county-level taxes. This bill proposes that both state and county requirements be the same, 90 days. There were no opponents or proponents. Mr. Weinber told the Committee that Sen. Thomas's bill is a revision of the procedure. If it passed, it would repeal the section and amendment before this committee, but he stated the DOR had no problem with that, only with day discrepancy in existing statute.

Mr. Weinberg referred back to Senate Bill 54, the question of service on STAB, and thought the language could be more satisfactory and also provide that "whenever the DOR is not served with the summons and complaint, the complainant shall notify the Department of Revenue in writing of the commencement of the suit within 10 days of filing the action."

The Committee decided to wait for a response from STAB before drafting an amendment to this bill.

CONSIDERATION OF SENATE BILL 3: Senator Norman said he had talked to Rep. Lory and that he had said SB 3 does not bother the Consumer Council. Sen. Norman moved that Senate Bill 3 be given a do pass recommendation. Motion carried and there was a unanimous vote to do pass SB3.

CONSIDERATION OF SENATE BILL 12: Sen. Norman said the committee was talking previously re this bill about page 9, line 25. Concern was that the coal companies pay a tax on mining coal but get no direct benefit. He wanted the bill phrased so that coal companies couldn't come in and argue they wouldn't pay the tax because of no benefit. He suggested striking everything after line 21, page 9, and before line 14, page 10.

Sen. Towe moved that the material on lines 21-25, page 9, and lines 1-14 on page 10 be deleted and the paragraphs following be renumbered. Amendment was carried by unanimous vote. Sen. Towe then moved that on page 1, following the word "pending" on line 25, the words "if applicable" be added. This motion was passed unanimously. Sen. Towe further moved that on page 2, lines 17 through 22 be deleted in their entirety. Discussion indicated that this is the coal severance tax, and it would be inappropriate to state in a bill that we are going to terminate the earmarked funds. The Committee thought that there were bills or a bill in the House concerning earmarked funds and postponed consideration until these could be available.

FURTHER CONSIDERATION OF SENATE BILL 54: Cort Harrington talked on the phone with Bob Randall, State Tax Appeals Board, who said he would have no opposition to having the DOR served if STAB received notice and also had no opposition to striking language concerning

service of all pleadings on STAB. He did think that getting pleadings was important in some cases and suggested wording "upon request of the State Board of Tax Appeals, the Dept. of Revenue shall furnish copies of all pleadings."

Sen. Towe proposed the following amendment: That on line 21, words "state tax appeals board and the" be stricken and words "or taxpayer" inserted after "department of revenue." Further, he proposed that after word "thereon" on line 25 the following be added: "The Dept. of Revenue shall promptly notify the state tax appeals board, in writing, of any such judicial review, but failure to do so shall have no effect on this judicial review. The department of revenue shall, on request, submit to the state tax appeals board a copy of all pleadings and documents." The next sentence would be stricken entirely, with paragraphs 3 and 4 remaining the same. The motion made, carried unanimously, and Sen. Brown moved that Senate Bill 5 pass, as amended. Motion carried and it was so ordered.

FURTHER CONSIDERATION OF SENATE BILL 12: Sen. Steve Brown had a further comment about this bill. Because he is on the Audit Committee, he is concerned about getting back into a set sunset cycle, and suggested that rather than use standard sunset cycle maybe what was needed was for the Finance and Audit Committees to furnish a report, as they already have the data, and then a value judgment could be rendered. He wondered about the most efficient way to make a value judgment.

Sen. Norman said it was the Legislative Finance Committee that met often during the interim. They are frustrated because all this money is being collected and there is no way to look at it because it is earmarked. Action was postponed on this bill.

There was no further discussion, and the meeting was adjourned.


PAT M. GOODOVER, Chairman

ROLL CALL

TAXATION COMMITTEE

47th LEGISLATIVE SESSION - - 1981

Date 1/14/81

NAME	PRESENT	ABSENT	EXCUSED
Goodover, Pat M., Chairman	✓		
McCallum, George, Vice	✓		
Brown, Bob	✓		
Brown, Steve	✓		
Crippen, Bryce D.	✓		
Eck, Dorothy	✓		
Elliott, Roger H.	✓		
Hager, Tom	✓		
Healy, John E. "Jack"		✓	
Manley, John E.	✓		
Norman, Bill	✓		
Ochsner, J. Donald	✓		
Severson, Elmer D.	✓		
Towe, Thomas E.	✓		

Each day attach to minutes.

Jan. 14, 1981

BILL NO'S 53, 54,

VISITOR'S REGISTER		Check On	
NAME	REPRESENTING	Support	Op
Laurence Wapner	D.O.R.	53	53
Dwight V. Bul	Sen Aide	✓	✓
Bill Sternbogen	N.W. M. A.	✓	✓
Bill Davis	Mt. Mng Assoc.		
Frank Stuart	Nat. Coal Council		
Richard Jones	III		

(Please leave prepared statement with Secretary)

DEPARTMENT OF REVENUE

SENATE BILL NO. 54

SB 54 requires an appellant from a decision of the State Tax Appeal Board (STAB) to serve a copy of the petition on the Department of Revenue. At present, the law only requires service on STAB. At present, most appealing parties send the Department a copy of the petition, and the proposed amendment codifies this practice. Failure to notify the Department can lead to a default judgment. Such a judgment then requires the Department to institute an action to set aside the default and reargue the case on its merits. This is both time-consuming and expensive, both for the State and the appellant. In a recently decided case, Department of Revenue v. Davidson Cattle Company, No. 80-292 (December 30, 1980), a default judgment against STAB was set aside by the Montana Supreme Court. The Court noted that the general statute governing appeals in contested cases (2-4-702, MCA) requires notice to be given to the affected agency while the specific statute governing STAB appeals only requires service on STAB. Ruling that the specific governs the general, the Court indicated that notice to the Department does not seem to be required in STAB appeals. In order to bring the STAB appeal procedure and the general appeal procedure into harmony, the Department puts forward the amendments of this bill.

Section Analysis

Section 1. Amends 15-2-303, MCA. On page 1, lines 21 and 22, the "department of revenue" is inserted as a party required to be served in a STAB appeal.

HOUSE TAXATION COMMITTEE MEETING MINUTES
March 5, 1981

A meeting of the House Taxation Committee was held on Thursday, March 5, 1981 at 8:00 a.m. in Room 102 of the State Capitol. All members were present. SENATE BILLS 3, 54 and 55 were heard and EXECUTIVE ACTION was taken on SENATE BILL 3.

SENATE BILL 3, sponsored by Sen. Bill Norman, was heard. The bill addresses a problem that arose with the County Assessors. There are various districts in a County taxing jurisdiction and from time to time, the boundaries are shifted, and the jurisdictions wish to partake of the taxes that are due them, but it is sometimes difficult for this to be done by the assessor because of the time element. The bill says that unless the jurisdictions make their requests before the tax statements are prepared they cannot collect the money that year.

There were no other PROPONENTS; there were no OPPONENTS to SB 3. Questions were then asked. Rep. Williams asked Ms. Ellen Feaver, Director of the Department of Revenue, for her opinion of the bill. She said it seemed to be a reasonable bill.

The sponsor then closed, and the hearing on SB 3 was closed.

Chairman Nordtvedt entertained a motion to move the bill. Rep. Zabrocki moved that SB 3 BE CONCURRED IN. Discussion took place. Williams wanted to know the reason why the bill had been drafted. Feaver said that probably some jurisdiction had been formed too late to be taken care of. The Assessors had requested this bill.

The question was then called for on the motion that the bill BE CONCURRED IN; motion carried unanimously.

Chairman Nordtvedt announced that Rep. Sales had asked if the Committee would be interested in reconsidering HB 160 and moving it to the Senate so they could also consider it. Discussion then took place regarding the bill. Rep. Dozier said that the Attorney General's office felt HB 160 would have better advantages than the one which had been passed out of Committee. Rep. Sivertsen requested that Rep. Dozier bring more information on the subject. Rep. Dozier withdrew his motion to take the bill off the table.

SENATE BILL 54 was then heard. The sponsor, Sen. Bob Brown, said the bill clarified a problem concerning tax appeals decisions. At present, if the matter is taken to District Court, the Department of Revenue is named as the defendant. However, there is no provision in the law which says the Department of Revenue has to be notified to appear in Court. This bill says that the Department has to be informed in writing that they are going to Court. This will ensure that the Department of Revenue won't be defaulted because they didn't know they were supposed to appear.

Ellen Feaver, Department of Revenue, then spoke. It seems only procedurally reasonable that this provision be made in the law.

There were no OPPONENTS to the bill. Questions were then asked. Rep. Brand asked Ms. Feaver why the Board of Appeals didn't notify the Department. Ms. Feaver replied that there was no communication between the two entities in this matter. She said the person bringing the suit would do the notifying, and added that in most cases, this already happens, but not always.

Sen. Brown then closed, and the hearing on SB 54 was closed.

SENATE BILL 55, also sponsored by Sen. Bob Brown, was then heard. This bill eliminates the requirement that certain tax returns be notarized.

Ellen Feaver, Department of Revenue, then rose in support of the bill. The notarization is not needed because taxpayers are held liable for what they sign whether or not their signature has been notarized. The notarization serves no useful purpose. Also, the bill eliminates a filing requirement for certain businesses, which presently serves only as a harrassment, since the Department receives this information through other channels already.

There were no OPPONENTS to the bill. Questions were asked. Rep. Nordtvedt wanted to know what tax returns presently required the notarization. Ms. Feaver replied that most of them were in the miscellaneous and the severance tax areas. Mostly, they are dealing with miners. The signature requirements will remain the same other than the notarization requirement. Rep. Devlin wanted to know how far the bill extended. Ms. Feaver said the notarization added nothing as far as she was aware of.

Sen. Brown then closed and the hearing on SENATE BILL 55 was closed.

The Committee then went into EXECUTIVE SESSION and the Vehicle Fee Bill Subcommittee made a report on HOUSE BILL 428; see Exhibit "A." Rep. Sivertsen went through the bill and explained what had been done. He explained that originally the bill had provided for a \$15 fee plus 2 1/2% of the average trade-in value. The Subcommittee decided to do away with the \$15 fee and raise the percentage to 3%. Also, they decided to have the Blue Book updated twice a year.

Rep. Williams wanted to know if it had been figured out if the 3% figure would be sufficient. Rep. Nordtvedt said that when the fiscal impact of the bill, as amended, was figured, this would be done for several different percentage amounts, and the 3% wasn't a firm figure yet.

Rep. Sivertsen explained that August was the month of the second Blue Book being started. Rep. Nordtvedt explained that the January and July comprehensive books would be used and the rule-making authority of the Department of Revenue would be used to implement those books in a timely manner. They need a certain amount of time lag to get the tabulations implemented into the computer.

VISITORS' REGISTER

HOUSE Taxation

COMMITTEE

FILE 2354
SPONSOR B Brown

Date 3/5/81

[illegible]

IF YOU CARE TO WRITE COMMENTS, ASK SECRETARY FOR LONGER FORM.

PLEASE LEAVE PREPARED STATEMENT WITH SECRETARY.

Rep. Williams submitted that 20% of the severance tax over 30 years would be much more money that the Counties would need to maintain their roads.

Rep. Nordtvedt said that basically the bill would give \$10 million to a handful of the richest Counties in Montana. This is the most extreme "pork barrel" bill of the session.

The question was then called for on the motion that the bill be taken off the table; motion carried 10 - 9; see roll call vote.

Discussion then took place on the bill. An amendment was suggested for line 24, page 1. 50% of 1% would generate the same amount of money as 20% of the 2 1/2%. Also, a coordination section would be needed in the bill; see Exhibit "B." Discussion took place regarding whether or not the severance tax was paid on different classes of land.

Rep. Devlin moved that HOUSE BILL 543 DO PASS. Regarding the 20% figure, Rep. Nordtvedt said that just dollars could be specified, also.

Rep. Asay said this bill could have aspects in the future quite different than the present predictions; Rep. Williams rose in opposition to the bill.

Rep. Switzer said that Richland County wasn't the only County being discussed, and in other Counties the impact is also great and the local people have to use the same roads. He moved to amend Line 24 p. 1 from 20% to 5%; in addition he moved to provide a coordination section. The motion to amend the bill carried unanimously.

Rep. Brand then rose in support of the bill. He didn't feel the bill would only be affecting a few Counties, because the Overthrust Belt would bring many more Counties into the situation.

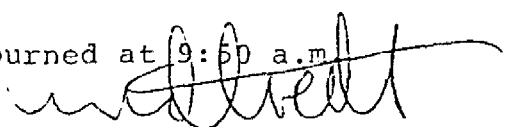
Rep. Neuman suggested taking the percentage to 10% and leaving the reference to roads and bridges out. Rep. Roth was in opposition to the idea because the impact is on the roads and bridges.

The question was then called for on the motion of DO PASS AS AMENDED Motion carried 10 - 9; see roll call vote.

SENATE BILL 54 was then considered. Rep. Dozier moved that it BE CONCURRED IN; motion carried unanimously.

Rep. Oberg moved that SENATE BILL 55 BE CONCURRED IN; motion carried unanimously.

The meeting was adjourned at 9:50 a.m.



Rep. Ken Nordtvedt, Chairman

STANDING COMMITTEE REPORT

March 7, 1927

MR. SPEAKER

We, your committee on TAXATION

having had under consideration SENATE Bill No. 54

A BILL FOR AN ACT ENTITLED: "AN ACT TO AMEND SECTION 15-2-303, MCA, TO REQUIRE SERVICE OF THE APPEAL PETITION ON THE DEPARTMENT OF REVENUE IN THE CASE OF AN APPEAL FROM A DECISION OF THE STATE TAX APPEAL BOARD."

Respectfully report as follows: That SENATE Bill No. 54

BE CONCURRED IN

DONNASS